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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,296	07/10/2003	David Brault	84215-202 ADB	1602
23529	7590	05/31/2006	EXAMINER	
ADE & COMPANY INC. P.O. BOX 28006 1795 HENDERSON HIGHWAY WINNIPEG, MB R2G1P0 CANADA			GELLNER, JEFFREY L	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/616,296

Applicant(s)

BRAULT ET AL.

Examiner

Jeffrey L. Gellner

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,4-16,19-22,25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,4-7,9-16,25 and 26 is/are allowed.
- 6) ☒ Claim(s) 8 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8, line 7, the language of “an air handling system” contradicts the language of line 23 of “one of a plurality of air handling systems.” Perhaps claim 8 should be amended to include language that the “air handling system” --comprises a plurality of air handling systems.”

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wi (US 5,438,795) in view of Siccardi (US 4,737,103) and Bohanon Sr. (US 4,445,426) in further view of Meckler (US 5,279,609).

As to claim 19, Wi discloses a greenhouse with the exterior wall structure with transparent panels (shown in Fig. 1 for the far sidewall) and defined by a plurality of benches (G

Art Unit: 3643

of Fig. 1), vertical posts (shown in Fig. 1 for the far sidewall), each bench associated with a span between posts (in that in Fig. 1 there are ten “benches” (i.e., growing regions) and 10 spans, excluding the two de minimis, triangular spans at the bottom corners). Not disclosed is an air handling system which includes a plurality of air moving fans each mounted in a respective one of a plurality of fan housings having one interior air intake, one interior air outlet, one exterior vent, and one component for air changing, wherein the plurality of fan housings is equal to the number of spans between the plurality of vertical posts, the number of air handling systems equal to the number of benches. Siccardi, however, discloses an air handling system for a greenhouse (col. 1, line 20) which includes an air moving fans (115 of Fig. 5) mounted in a fan housings (111 of Fig. 5) of having one interior air intake (213 and 215 of Fig. 5), one interior air outlet (region around 115 of Fig. 5), one exterior vent (region around 211 of Fig. 5), and one component for air changing (119 of Fig. 5); Bohanon Sr. discloses the concept of mounting the fan housing between vertical posts (see 10 of Fig. 1); and Meckler discloses the concept of a plurality of independent air handling systems for each unit (A of Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the greenhouse of Wi by using the air conditioning system of Siccardi to heat the greenhouse with moderate air velocity (see Siccardi at col. 1, lines 23-39) and to place the fan housings between vertical posts as an efficient building method and to use a plurality of housings to increase the air conditioning power as disclosed by Bohanon Sr and to use multiple systems as disclosed by Meckler so as to serve separate comfort air spaces (see Meckler at col. 1 lines 5-10).

As to claim 20, Wi as modified by Siccardi, Bohanon Sr. and Meckler further disclose the fan housings being inside the posts (in that inside the greenhouse of Fig. 5 of Siccardi)..

As to claim 21, Wi as modified by Siccardi, Bohanon Sr., and Meckler further disclose a wall panel the height of the fan housing (see Fig. 1 of Bohanon Sr.).

***Allowable Subject Matter***

Claims 2, 4-7, 9-16, 25, and 26 are allowed over the art of record.

Claim 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Response to Arguments***

Applicant's argument filed 13 March 2006 have been fully considered but they are not persuasive. The argument is that neither Wi, Siccardi, nor Bohanon Sr. disclose a separate air handling system for each bench. Examiner considers Meckler to disclose a separate air handling system for each unit which for a greenhouse is a bench.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey L. Gellner whose telephone number is 571.272.6887. The examiner can normally be reached on Monday-Friday, 8:30-4:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'J. Gellner', with a stylized flourish at the end.

Jeffrey L. Gellner  
Primary Examiner  
Art Unit 3643